

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: ETHICON, INC. PELVIC REPAIR
SYSTEMS PRODUCTS LIABILITY
LITIGATION

Master File No. 2:12-MD-02327
MDL 2327

ETHICON NON-REVISION PTO 298
(ELECTION WAVE) CASES LISTED IN
EXHIBIT A OF DEFENSE NOTICE OF
ADOPTION

JOSEPH R. GOODWIN
U.S. DISTRICT JUDGE

**NOTICE OF ADOPTION OF PRIOR DAUBERT RESPONSE OF
DIONYSIOS K. VERONIKIS, M.D. FOR
NON-REVISION PTO 298 (ELECTION WAVE)**

Come now, the Plaintiffs, and hereby adopt and incorporate by reference the *Daubert* response filed in relation to Dionysios K. Veronikis, M.D., for Ethicon Wave 3, Dkt. 2890 and Ethicon Wave 8, Dkt. 6964. Plaintiffs respectfully request that the Court deny Defendants' motion, for the reasons expressed in the Wave 3 and Wave 8 response briefing.

As to Ethicon's additional argument that any opinions about alternative procedures should be excluded, this Court should not make that determination in adjudicating a general *Daubert* motion. Defendants are presenting an issue of relevance under Rule 401, and such issues should be determined within the context of specific cases and state law. Alternative procedures do have relevance to key issues in the case under the laws of many states. *See Herrera-Nevarez by Springer v. Ethicon, Inc.*, No. 12 C 2404, 2017 WL 3381718, at *7 (N.D. Ill. Aug. 6, 2017) (allowing Dr. Elliott's testimony about alternative procedures under the risk-utility test employed by Illinois courts).

Dated: December 27, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 27, 2018, I electronically filed the foregoing document with the Clerk of the court using CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

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